

1 **BERMAN O'CONNOR MANN & SHKLOV**  
Suite 503, Bank of Guam Bldg.  
2 111 Chalan Santo Papa  
Hagåtña, Guam 96910  
3 Telephone: (671) 477-2778

4 Attorneys for Defendant  
5 *JAMES JI ENTERPRISES, INC. ET AL.*

**FILED**  
DISTRICT COURT OF GUAM  
**NOV 29 2002**  
MARY L. M. MORAN  
CLERK OF COURT

37

6  
7 **IN THE DISTRICT COURT OF GUAM**

8 ALICE N. SALAS,

9  
10 Plaintiff,

11 v.

12 JAMES JI ENTERPRISES, JJ PACIFIC  
13 DEVELOPMENT CORPORATION,  
JAMES JI AND HYUNG LEE,

14  
15 Defendant.  
16

CIVIL CASE NO. CV02-00002

**MOTION TO ENLARGE TIME  
AND MEMORANDUM OF  
POINTS AND AUTHORITIES**

17 **MOTION TO ENLARGE TIME AND**  
**MEMORANDUM OF POINTS AND AUTHORITIES**

18  
19 **EX PARTE MOTION CONTINUE MOTION CUT-OFF AND TRIAL DATES**

20 Defendants James Ji, et al., through counsel undersigned, hereby move the court for an order,  
21 pursuant to LR 16.5, enlarging time for the Motion cut-off date of an additional thirty days and  
22 continuing the trial date currently scheduled on February 10, 2003 to a date to be set by this Court  
23 based on cause shown. Counsel for Plaintiff has been repeatedly contacted by Defendants' attorney,  
24 and she has not indicated whether she consents to the enlargement of time of the Motion cut-off date  
25 and Trial.

26  
27  
28 E:\Jean\Plds\1422.wpd

**ORIGINAL**

4 **I. Chronology of Facts**

5 On September 30, 2002, Attorney Monica Valle delivered letter to Attorney Lynch  
6 for the Plaintiff with regard to the discussion of discovery deadlines in the set of Depositions of the  
7 parties. See, Declaration of Counsel, ¶3, and Letter Attorney Valle, September 30, 2002, Exhibit  
8 "1".

9 On September 30, 2002, Attorney for Plaintiff replied regarding scheduling of the  
10 Deposition of the parties, and her requirement to go off island for travel between October 5, and  
11 October 19, 2002. Id. at ¶4; Letter Attorney Lynch, September 30, 2002, Exhibit "2".

12 On October 9, 2002, Attorney for Plaintiff issued written notice that emergency  
13 medical leave required off island travel between October 9, 2002 to October 31, 2002. Id. at ¶5;  
14 Notice Attorney Lynch, dated October 9, 2002, Exhibit "3".

15 On October 17, 2002, Attorney Valle for Defendants delivered letter to opposing  
16 counsel. This written request requested cooperation to schedule Depositions and accommodate the  
17 off island travel of opposing counsel. Id. at ¶6; Letter Attorney Valle, dated October 17, 2002 to  
18 Attorney Lynch, Exhibit "4".

19 On October 24, 2002, Attorney Valle delivered letter and facsimile to Attorney Lynch  
20 for Plaintiff with respect to extension of the Motion cut off to the new date of January 6, 2003. The  
21 letter also accommodated and cooperated with the set of the Deposition in late November 2002 for  
22 Plaintiff. Id. at ¶7; Letter October 24, 2002 Attorney Valle to Attorney Lynch, Exhibit "5",  
23 attached.

24 On October 31, 2002, Attorney Valle for the Defendants delivered letter to opposing  
25 counsel with respect to the coordination of the Stipulation and Order to continue and enlarge dates  
26 for the cut-off deadlines for all motions and discovery. Id. at ¶8; Attorney Valle letter dated October  
27

4 31, 2002 to Attorney Lynch, Exhibit "6", attached.

5 On November 17, 2002, Attorney Valle for the Defendants sent facsimile to Attorney  
6 Lynch with respect to a follow-up and request for advise on the status of the Stipulation and Order  
7 to enlarge the schedule for the motions and discovery cut off dates. Id. at ¶9; facsimile dated  
8 November 17, 2002 to Attorney Lynch, Exhibit "7", attached.

9 On November 22, 2002, Deposition was taken of Plaintiff Alice Salas with opposing  
10 counsel present. Attorney Berman for Defendants requested in person to Attorney Lynch to respond  
11 to the proposed Stipulation and Order to extend the relevant motions and discovery cut off dates.  
12 See, Declaration of Counsel, ¶10, filed herewith; Exhibit "8". Opposing counsel for Plaintiff asked  
13 if the possibility existed for a discovery extension or stipulation to allow more discovery. Counsel  
14 for Plaintiff indicated no opposition. Id.

15 **II. Points and Authorities**

16 Defendants James Ji, et al. move for an extension of time because the deposition of the  
17 Plaintiff took place only on November 22, 2002. Through an agreement with Plaintiff's counsel,  
18 the depositions of the parties were to be scheduled shortly after the deposition cut-off date as set  
19 forth in the Scheduling Order. In light of this extension, Defendant's counsel proposed that the  
20 motion cut-off be extended as well. Once the deposition(s) of the parties was had, then a basis for  
21 a dispositive motion(s) is expected.

22 In the event that the motion cut-off is extended, an effect on all the subsequent deadlines will  
23 result. As such, a need to extend the trial date in this case, and related deadlines also arises. For this  
24 reason, a request for a continued trial date is also made. Plaintiff's counsel had originally agreed to  
25 both an extension of the discovery cut-off and the motion cut-off dates. However, Plaintiff's counsel  
26 has failed to respond to repeated written requests for a position as to a proposed stipulation for  
27

4 continuance and all related dates.

5 Earlier, the first reason for enlargement was that Defendants' attorneys were retained after  
6 the preparation and approval of the first Scheduling Order. Plaintiff's counsel consented to first  
7 enlargement. However, she did not agree to sign to a stipulated motion for such.

8 Based on Federal Civil Procedure 6(b) **Enlargement**, Defendants' in this action submit that  
9 good cause exists to extend the motion cut-off date and trial date in this matter Plaintiff moves for  
10 an enlargement of time of an additional thirty (30) days of the Motion cut-off date, and request an  
11 appropriate extension of the trial date in order that all the deadlines as required are complied with.

12  
13 Rule 6 (b) of the Federal Rules of Civil Procedure states:

14 **Enlargement.** When by these rules or by a notice given thereunder or by order of  
15 court and act is required or allowed to be done at or within a specified time, the court  
16 for cause shown may at any time in its discretion (1) with or without motion or notice  
17 order the period enlarged if request therefore is made before the expiration of the  
18 period originally prescribed or as extended by a previous order, or (2) upon motion  
made after the expiration of the specified period permit the act to be done where the  
failure to act was the result of excusable neglect; but it may not extend time for  
taking any action under Rules 50 (b) and (c) (2), 52 (b), 59 (b), (d) and (e), 60 (b) and  
74 (a), except to the extent under the conditions stated in them.

19 Defendants request that the Court enlarge the dates as set forth in the Scheduling Order in  
20 the above-captioned matter due to the recent entry of appearance of counsel in this case.

21 Defendants' Motion is based on good cause and should therefore be granted.

22  
23 **CONCLUSION**

24 Defendants move the Court for an enlargement of time of Motion and Trial dates.

4 Dated this 29 day of November, 2002.

6 Respectfully submitted.

7 **BERMAN O'CONNORMANN & SHKLOV**  
8 Attorneys for Defendant *JAMES JI*  
9 *ENTERPRISES, INC. ET AL.*

10  
11 By:



12 **MONICA VALLE**  
13 **DANIEL J. BERMAN**  
14 Attorneys for Defendants James Ji, et. al.  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27